

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2003-227-C – ORDER NO. 2007-**

\_\_\_\_\_, 2007

Application of Hargray Wireless, LLC	)	
for Designation as an Eligible	)	OFFICE OF REGULATORY
Telecommunications Carrier under	)	STAFF'S PROPOSED ORDER
47 U.S.C. 214 (e)(2)	)	
_____	)	

**INTRODUCTION AND JURISDICTION OF THE COMMISSION**

This matter is before the Public Service Commission of South Carolina (the Commission) on the Application of Hargray Wireless, LLC (Hargray) for designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. § 214(e)(2). 47 U.S.C. § 214(e)(2) states that, in designating ETCs, “[a] state commission shall upon its own motion or upon request designate a common carrier . . . as an eligible telecommunications carrier for a service area designated by the State commission.” By this Application, Hargray seeks authorization to receive support from the federal Universal Service Fund (USF) for use within Hargray’s licensed service area in South Carolina.

**BACKGROUND**

On March 17, 2005, the Federal Communications Commission (FCC) issued its “ETC order.”<sup>1</sup> This order established a minimum set of criteria the FCC uses in evaluating

---

<sup>1</sup> Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (2005).

applications for ETC designation. Additionally, the FCC encouraged state commissions that retain jurisdiction over ETC designation to voluntarily adopt the FCC's additional requirements for ETC status.

On January 25, 2006, and in Docket No. 2006-37-C, the Office of Regulatory Staff (ORS) filed a Petition for a Rulemaking Proceeding to Examine the Requirements and Standards to be Used by the Commission When Evaluating Applications for ETC Status and When Making Annual Certification of ETC Compliance to the FCC. The Commission scheduled workshops for October 12, 2006 and May 25, 2007, and held a hearing on June 26, 2007. The Commission has accepted Comments from various participants to the proceeding. As of the date of this order, the Commission continues its work toward finalizing its own requirements and standards for evaluating applications for ETC status or for annual certification to the FCC of ETC compliance. However, in its March 27, 2007 order, the Commission stated it "should be guided by reference to the services designated for support set out at 47 CFR 54.101."

On July 24, 2003, Hargray filed its Application for Designation as an ETC under 47 U.S.C. § 214(e)(2), arguing it met the then existing requirements for receiving ETC status as stated by the FCC. An amendment to the application was filed on June 20, 2006 in order to comply with the requirements set forth in the FCC's ETC order from 2005.<sup>2</sup> South Carolina Telephone Coalition (SCTC) and United Telephone Company of the Carolinas d/b/a Embarq (Embarq)<sup>3</sup> intervened.<sup>4</sup> ORS was a party pursuant to statute.

---

<sup>2</sup> In its amendment, Hargray committed to meeting all the new annual reporting requirements, including the filing of a five-year network improvement plan, network outage reports, and other certifications and reports included in the FCC's report and order.

<sup>3</sup> Embarq filed a motion to intervene out of time on June 5, 2007. The Commission granted the motion on July 2, 2007, in Order No. 2007-438.

The public hearing was held at the Commission offices on June 28, 2007, with the Honorable G. O’Neal Hamilton, Chairman, presiding. At the hearing, William W. Jones, Esquire, and David LaFuria, Esquire, represented Hargray. John Bowen, Esquire, and Margaret Fox, Esquire, represented the SCTC. Scott Elliott, Esquire, and H. Edward Phillips, Esquire, represented Embarq. C. Lessie Hammonds, Esquire, and Shealy Boland Reibold, Esquire, represented ORS.

### **FINDINGS OF FACT**

After thorough consideration of the entire record including the testimony, exhibits and the applicable law, the Commission makes the following findings of fact with respect to Hargray’s application:

1. Hargray is authorized by the FCC as the C Block personal communications service (PCS) carrier in Beaufort, Jasper and Hampton counties. Hargray is a PCS provider pursuant to the definition of “mobile service” provided in 47 U.S. C. § 153(27), and provides interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.703(a).

2. Hargray has operated for several years in South Carolina and has expressed its commitment to continuing and expanding its service to South Carolina residents in the Hargray/Bluffton ILEC service areas as well as parts of Verizon and Embarq service areas through utilization of USF funds it would receive if its application for ETC status is approved.

---

<sup>4</sup> MCI Communications, Inc. and Verizon Communications, Inc. also intervened but did not participate in the hearing.

3. Hargray currently provides several of the ETC services required by the FCC to its customers. Hargray has agreed to provide all of the nine services required by the FCC for ETC designation.

4. Hargray has submitted a plan detailing its planned expansion and improvement of equipment and services should it receive USF funding.

5. Hargray has reiterated that expansion of and improvements to equipment and services will not be initiated in the designated areas unless it receives USF funding.

6. Granting Hargray ETC status would expand service to currently unserved or underserved areas in the requested service area and extend service to lower income areas through the utilization of Lifeline and Link-up services. Hargray states it will advertise Lifeline and Link-up services through media, such as newspapers, radio, signs in retail stores, and billboards, should its application for ETC status be approved.

7. Granting Hargray ETC status would result in infrastructure development in the projected areas, which could promote economic development due to the availability of high quality wireless services.

8. Granting Hargray's petition to be named an ETC would bring federal USF funds into South Carolina. In 2006 and prior years, South Carolina received no allocations from the USF for competitive ETCs despite paying into the fund.

9. Hargray has provided substantial information to the Commission regarding its application and has indicated it is willing to provide any further information the Commission requests in the future.

10. The Commission is to submit an annual certification to the FCC that a carrier has remained in compliance with the ETC requirements and standards prior to an ETC receiving continued USF support. Should the Commission determine, upon Hargray seeking

recertification in subsequent years, Hargray has not honored or followed through on its commitments and plans as set forth before the Commission, the Commission may deny Hargray's annual recertification, thereby precluding Hargray from receiving further USF support.

11. Hargray has met all the necessary statutory and regulatory prerequisites established in 47 U.S.C. §214(e)(1) for designation as an ETC.

12. Pursuant to FCC guidelines, the Commission finds that it is in the public interest, as defined by the FCC, to grant Hargray ETC status for the above-stated reasons.

**IT IS, THEREFORE, ORDERED THAT:**

1. The Commission has jurisdiction to designate Hargray as an ETC pursuant to 47 U.S.C. § 214(e)(2).

2. Hargray is hereby designated, effective as of the date of this Order, as an ETC and is eligible to receive all available support from the federal USF, including support for rural and "high-cost" areas and "low income" customers within its designated service territory.

3. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in designated areas and provide Lifeline credits for low income customers.

4. Hargray shall advertise to the public in its ETC-designated area that it is offering the supported universal services, and the charges for those services, in local circulation newspapers. Hargray shall also advertise to the public the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for such services.

5. Hargray shall abide by its commitment to provide service throughout its ETC-designated service area to all customers, including low income customers, making a request for service, the reasonableness of which may be determined by ORS.

6. Hargray shall abide with all applicable statutes, rules, and regulations affecting ETC status and obligations. Hargray shall also abide by the requirements and standards which may be established by this Commission in Docket No. 2006-37-C.

7. Hargray shall comply with all annual reporting and certification requirements as set forth by applicable statutes, rules, and regulations.

8. Should the Commission determine Hargray has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny Hargray's annual recertification, effectively revoking Hargray's designation as an ETC.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
G. O'Neil Hamilton, Chairman

ATTEST:

\_\_\_\_\_  
C. Robert Moseley, Vice Chairman

(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2003-227-C**

IN RE:	)	
Application of Hargray Wireless, LLC for Designation	)	<b>CERTIFICATE OF</b>
as an Eligible Telecommunications Carrier Under	)	<b>SERVICE</b>
74 U.S.C. 214(e)(2)	)	

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **PROPOSED ORDER** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

**William W. Jones, Jr., Esquire**  
Jones Schneider & Patterson, P.A.  
PO Drawer 7049  
Hilton Head, SC 29938

**Darra W. Cothran, Esquire**  
Woodward, Cothran & Herndon  
PO Box 12399  
Columbia, SC 29211

**Elliott F. Elam, Jr., Esquire**  
SC Dept. of Consumer Affairs  
PO Box 5757  
Columbia, SC 29250

**Margaret M. Fox, Esquire**  
McNair Law Firm  
PO Box 11390  
Columbia, SC 29211

**Stan J. Bugner**  
Verizon Communications, Inc.  
1301 Gervais St., Ste. 825  
Columbia, SC 29201

**Steven W. Hamm, Esquire**  
Richardson Plowden Carpenter & Robinson, PA  
PO Box 7788  
Columbia, SC 29202

**H. Edward Phillips, Esquire**  
Embarq  
14111 Capital Blvd.  
Mailstop NCWKFR0313  
Wake Forest, NC 27587-5900

**David A. LaFuria, Esquire**  
Lukas, Nace, Gutierrez & Sachs, Chartered  
1650 Tysons Boulevard, Ste 1500  
McLean, VA 22102

**Scott Elliott, Esquire**  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, SC 29205

A handwritten signature in black ink, appearing to read 'Pamela J. McMullan', is written over a horizontal line.

Pamela J. McMullan

August 15, 2007  
Columbia, South Carolina